

Rev. 4/18

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT
CIVIL APPEAL STATEMENT

Please TYPE. Attach additional pages if necessary.

11th Circuit Docket Number: 23-11528

Caption: State of Florida v. USA, et al.	District and Division: Northern District of Florida, Pensacola Division Name of Judge: T. Kent Wetherell II Nature of Suit: Administrative Procedure Act challenge to agency action <hr/> Date Complaint Filed: September 28, 2021 District Court Docket Number: 3:21-cv-1066 <hr/> Date Notice of Appeal Filed: May 16, 2023 <input checked="" type="checkbox"/> Cross Appeal <input type="checkbox"/> Class Action <hr/> Has this matter previously been before this court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, provide (a) Caption: _____ (b) Citation: _____ (c) Docket Number: _____
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	Attorney Name	Mailing Address	Telephone, Fax, Email
For Appellant: <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (Specify)	Henry C. Whitaker Daniel W. Bell Darrick W. Monson James H. Percival II Natalie P. Christmas Joseph E. Hart	Office of the Attorney General PL-01, The Capitol Tallahassee, FL 32399	Ph. 850-414-3300 henry.whitaker@myflor idalegal.com
For Appellee: <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant <input type="checkbox"/> Other (Specify)	Joseph A. Darrow Elissa P. Fudim Erin T. Ryan Erez Reuveni	PO Box 868 Ben Franklin Station Washington, D.C. 20044	Ph. 202-598-7537 joseph.a.darrow@usdo j.gov

Please CIRCLE/CHECK/COMPLETE the items below and on page 2 that apply.

Jurisdiction	Nature of Judgment	Type of Order	Relief
<input checked="" type="checkbox"/> Federal Question <input type="checkbox"/> Diversity <input type="checkbox"/> US Plaintiff <input type="checkbox"/> US Defendant	<input checked="" type="checkbox"/> Final Judgment, 28 USC 1291 <input type="checkbox"/> Interlocutory Order, 28 USC 1292(a)(1) <input type="checkbox"/> Interlocutory Order Certified, 28 USC 1292(b) <input type="checkbox"/> Interlocutory Order, Qualified Immunity <input type="checkbox"/> Final Agency Action (Review) <input type="checkbox"/> 54(b)	<input type="checkbox"/> Dismissal/Jurisdiction <input type="checkbox"/> Default Judgment <input type="checkbox"/> Summary Judgment <input checked="" type="checkbox"/> Judgment/Bench Trial <input type="checkbox"/> Judgment/Jury Verdict <input type="checkbox"/> Judgment/Directed Verdict/NOV <input type="checkbox"/> Injunction <input type="checkbox"/> Other _____	Amount Sought by Plaintiff: \$° _____ Amount Sought by Defendant: \$° _____ Awarded: \$° _____ to _____ Injunctions: <input type="checkbox"/> TRO <input type="checkbox"/> Granted <input type="checkbox"/> Preliminary <input type="checkbox"/> Denied <input type="checkbox"/> Permanent

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Based on your present knowledge:

- (1) Does this appeal involve a question of First Impression? ☒ Yes ☐ No
What is the issue you claim is one of First Impression? Whether DHS's non-detention policy is reviewable under the APA
- (2) Will the determination of this appeal turn on the interpretation or application of a particular case or statute? ☒ Yes ☐ No
If Yes, provide
(a) Case Name/Statute 5 U.S.C. § 704; 5 U.S.C. § 551(13)
(b) Citation _____
(c) Docket Number if unreported _____
- (3) Is there any case now pending or about to be brought before this court or any other court or administrative agency that
(a) Arises from substantially the same case or controversy as this appeal? ☐ Yes ☒ No
(b) Involves an issue that is substantially the same, similar, or related to an issue in this appeal? ☒ Yes ☐ No
If Yes, provide
(a) Case Name State of Florida v. Alejandro Mayorkas, et al.
(b) Citation _____
(c) Docket Number if unreported No. 23-11644
(d) Court or Agency U.S. Court of Appeals for the Eleventh Circuit
- (4) Will this appeal involve a conflict of law
(a) Within the Eleventh Circuit? ☐ Yes ☒ No
(b) Among circuits? ☐ Yes ☒ No

If Yes, explain briefly:

- (5) Issues proposed to be raised on appeal, including jurisdictional challenges:

(1) Whether Defendants' policy directing immigration officials to detain only aliens determined to be a public-safety or flight risk pending removal proceedings constitutes final agency action subject to judicial review under the Administrative Procedure Act

I CERTIFY THAT I SERVED THIS CIVIL APPEAL STATEMENT ON THE CLERK OF THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT AND

SERVED A COPY ON EACH PARTY OR THEIR COUNSEL OF RECORD, THIS 1 DAY OF June, 2023.

Henry C. Whitaker

NAME OF COUNSEL (Print)

/s Henry C. Whitaker

SIGNATURE OF COUNSEL